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U.S. Environmental Protection Agency
Region 10
FACT SHEET

EPA's Concentrated Animal Feeding Operation (CAFO) Compliance Effort: Oregon Update

The U.S. Environmental Protection Agency has been working to improve compliance at Concentrated Animal Feeding Operations (CAFOs). Inspections and enforcement activities are part of this effort. This fact sheet provides updated information about EPA's activities in Oregon.

What is the environmental issue?

With an estimated 1.5 million head of cattle in Oregon, dairy and beef operations produce at least **7.5 million tons** of manure each year that must be kept out of Oregon's waters.

Animal waste in our local waterways can harm the environment and human health.

Animal waste in water is an environmental issue and a human health issue. For instance, animal waste is high in nutrients. When it enters a stream or lake, it can deplete oxygen and impact fish survival rates. Animal waste can also contain bacteria and viruses that are harmful to humans, including *E. Coli* and *Salmonella*. If cattle are allowed into streams, they can trample the stream side vegetation. Loss of this vegetation reduces shade cover, raises water temperature, and increases erosion. These conditions can severely affect the aquatic life, including trout and salmon

species that are listed or proposed for listing on the Endangered Species List.

Why is EPA involved?

The Clean Water Act was enacted in 1972. However, there remain some cases where CAFO owners have done little or nothing to keep animal waste from Oregon waters.

CAFOs are regulated as point sources under the NPDES program, and discharge of animal waste to surface waters is illegal. These discharges often result from overflowing waste storage ponds, runoff from holding areas and concrete pads, or from animals having direct access to surface waters. There have been many efforts to educate CAFO owners by state and EPA regulators, yet violations persist.

NPDES stands for National Pollutant Discharge Elimination System. NPDES is a wastewater discharge permit program.

EPA's initial efforts began with dairies, and now include cattle feedlots as well as other CAFO operations, such as hog and chicken farms, race tracks, etc.

The direct involvement of EPA in the regulation of CAFOs in Oregon is not new. In fact, EPA has been doing inspections and enforcement at dairy operations since 1994. EPA recently expanded enforcement beyond the Oregon dairy industry, to include beef cattle operations. During the past year, EPA directed some attention toward feedlots in eastern Oregon. Before this, the beef cattle segment of the Oregon CAFO population received few compliance inspections, even though they have been subject to the regulations since 1972.

What exactly is a CAFO?

A CAFO under federal regulations is an operation that confines animals for at least 45 days in a year, and the confinement area is devoid of vegetation. Coverage under the law varies with the type of animals confined.

Which CAFO operations are considered for enforcement?

EPA is conducting inspections again this fall and winter. EPA is targeting the worst cases first. In the cases filed to date, we have taken enforcement actions against operations with confinement areas actually in the stream or where streams run directly through the confinement area with no attempt to keep manure out of the water and sites that have a direct discharge of waste to surface waters. Penalty assessments in Oregon have ranged from \$11,000 to \$50,000.

What has EPA done to educate owners before taking enforcement actions?

EPA has been directly involved in the regulation of Oregon CAFOs since 1994. In that time, EPA has been involved in several activities to educate CAFO owners. These activities include:

1. Fact sheets, describing EPA CAFO requirements and enforcement strategy, mailed annually to hundreds of producers, assistance providers (NRCS), and industry associations such as the Oregon Dairy Association and the Oregon Cattlemen's Association.
2. Public meetings to discuss EPA requirements and enforcement strategy. These meetings were held in 1999-2000 in Ontario, Pendleton, LaGrande, Enterprise, Baker City, Portland, Tillamook, Boise, and Tri-cities, and were attended by both producers and assistance providers.
3. Several meetings with assistance providers (e.g. local conservation districts), industry associations, and state legislators to discuss EPA requirements and enforcement strategy.
4. Public notice of EPA enforcement actions against CAFO operations in Region 10.

Some have criticized EPA's enforcement presence as undermining local efforts to correct CAFO problems. Is this true?

EPA supports voluntary and community efforts to correct CAFO problems. However, some operators have not improved their operations voluntarily and are continuing to cause severe pollution discharges. Without enforcement, and financial penalty, these operators have an economic advantage over the operators who have invested substantial dollar amounts to prevent manure from reaching local waters. In the long term, we expect our enforcement efforts to encourage CAFO owners to work with local groups and state regulators to fix problems without the need for EPA enforcement actions.

While EPA has taken some criticism for filing federal enforcement actions, our staff is often told informally that the operations we have enforced against are the "bad actors," and that our actions are helpful.

Why is EPA doing this instead of the State of Oregon?

In Oregon, the Department of Agriculture, not the Department of Environmental Quality (DEQ), is responsible for CAFO enforcement. DEQ did not submit its federal CAFO program to EPA for approval before delegating its NPDES authority to the Department of Agriculture. As such,

EPA has a legal responsibility to enforce the law.

EPA's objectives in taking federal enforcement actions against CAFOs in Oregon:

1. Reduce the environmental and public health threats.
2. "Level the playing field" among CAFOs by eliminating the economic advantage that violators have enjoyed over those who have invested capital to comply with the law.
3. Encourage compliance and deter others from violating the law through education and public notice of penalties.
4. Encourage the State of Oregon to reassume its lead role in CAFO enforcement.
5. Use the authorities of the Clean Water Act to help salmon restoration efforts. EPA is required by law to use these authorities under Section 7(a)1 of the Endangered Species Act.

Oregon's current CAFO program is deficient in some respects because Oregon's law on inspections and enforcement is less stringent than EPA's. EPA believes the CAFO program can be run more efficiently at the state level. As a result, EPA is working with the state to correct program deficiencies. However, even if Oregon were to correct the deficiencies in its CAFO program, EPA would still have a duty under the Clean Water Act to oversee state CAFO program implementation.

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Are all CAFOs in violation of the Clean Water Act?

No. Many, if not most, CAFO operators work in such a way as to prevent manure from reaching surface waters. If manure from CAFOs does not reach surface waters, there is not a violation of the NPDES regulations. Also, the CAFO regulations do not cover open grazing or pasture areas/facilities. Again, EPA is targeting those operations with significant discharges.

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